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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,418	09/17/2001	Stephen F. Gass	SDT 329	1667
27630	7590	01/12/2005		
SD3, LLC 22409 S.W. NEWLAND ROAD WILSONVILLE, OR 97070			EXAMINER ASHLEY, BOYER DOLINGER	
			ART UNIT 3724	PAPER NUMBER

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/955,418	Applicant(s) GASS ET AL.	
	Examiner Boyer D. Ashley	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,9-12,14-19,25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) 25 and 26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 12 is/are allowed.
- 6) ☒ Claim(s) 1,9,10 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/6/04; 9/17/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to applicant's amendment filed on 10/28/04, wherein claims 11-12 were amended. Claims 1, 9-12, 14-19, and 25-26 are currently pending in the instant application with claims 25-26 remaining withdrawn. It should be noted that the double patenting rejections have been reviewed in light of the changes in all of the copending applications. It is believed that all appropriate double patenting rejections with all of Applicant's applications have/have not been made. As reiterated below, applicant's help is requested because of the large number of similar applications currently pending, patented, or currently being filed.

SPECIAL CIRCUMSTANCES OF THIS APPLICATION

Even if a copending application is listed on this instant application or other copending applications or patents and the material information is technically of record in one or more parent or copending applications, the unusually large number of applicant's cases in varying stages of the examination process might result in one or more parent applications not being readily available for review, or material information of record not being readily apparent. Moreover, applications, which may not have any direct relationship, as continuing applications, to other copending applications by the same assignee may not be readily apparent due to the unusually large number of applicant's cases.

Applicant should point out such material information to the examiner of the instant application if the criterion for materiality applies, and if the examination record provides applicant reason to believe such information has not been considered by the examiner. This should include a listing of all related cases whether previously filed, recently filed, currently being filed, or patented.

If, to the best of applicant's knowledge, applicant has no previous patent or copending application, which would meet the definition of "material," applicant is requested to make a statement of that fact of record.

Any parent application labeled as a CIP or Divisional is assumed to claim a patentably distinct invention from the claims of this application and therefore the issue of double patenting has not been considered and the rights to priority are limited to the common disclosed subject matter unless it is brought to the examiners attention that some claims are not distinct.

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37 CFR 1.56. Duty to disclose information material to patentability.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 9-10, and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foreign Document 19,609,771, hereinafter FD '771, in view of Ramsden, U.S. patent 4,637,289, or Malm, U.S. Patent 3,946,631, and Yoneda, U.S. Patent 4,117,752, or Friemann et al., U.S. Patent 3,858,095.

FD '771 discloses the invention substantially as claimed including: typical up-cut chop saws that move rotatable blades from a position below the work surface to a position above the work surface to cut a workpiece and including dangerous detecting

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device for detecting dangerous condition between the user and the user wherein the reaction device of FD '771 retracts the blade below the work surface. However, FD '771 lacks the detection system adapted to impart an electrical signal to the blades and to monitor the signal for a change indicated of contact between the user and the blade.

Yoneda and Friemann et al. both disclose that it is old and well known in the cutting tool safety art to use detection/reaction systems that impart electrical signals on blades such that the signals are monitor for the purpose of detecting whether a user contacts the blade or not thereby protecting the user for injury by stopping rotation of the blade while also allowing the user a bit of freedom to move his/her hands around the blade without activating the reaction system with a false alarm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a detection/reaction system which imparts an electrical on the blade such that the signal is monitored to determine if the user accidentally touches the blade for the detection system of FD '771 in order to prevent false alarms and more accurate injury prevention.

In the alternative, even if it is argued that the modified device of FD '771 lacks the specific details of the up-cut chop saw such as the frame, motor, and actuating mechanism, Ramsden and Malm both disclose typical up-cut chop saws that move rotatable blades from a position below the work surface to a position above the work surface to cut a workpiece which include frames, motors and actuating mechanism for the purpose of facilitating the cutting action of a workpiece with ease. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention

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was made to up-cut saw of FD '771 with the typical up-cut chop saw configurations of Ramsden and Malm in order to facilitate the cutting action of a workpiece with ease.

As to claim 14, the modified device of FD '771 discloses a blade mounted on a spindle, wherein the spindle and blade are electrically insulated from the frame because in order for the devices of Yoneda and Friemann et al. to function correctly, i.e. detect signal changes on the blade, the blade must be insulated from the frame.

As to claim 17 and 19, the modified device of FD '771 discloses the use of a control system, i.e., electronics, see the abstract of FD '771.

Allowable Subject Matter

4. Claims 11 and 12 appear to be allowable over the prior art of record.

Response to Arguments

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

As to applicants comment regarding the withdrawal of claims 25-26 as there is no serious burden to examine these claims. However, it should be noted that a serious burden can be shown by separate classification and/or search. In this case, claims 25-26 would be classified in 83/13 and would require searches in 83/13. For this reason, it is deemed that claims 25-26 are properly restricted.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


The cited reference is provided to shown a similar device.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Boyer D. Ashley
Primary Examiner
Art Unit 3724

BDA
January 9, 2005